

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of

THE APPLICATION OF JACKSON PURCHASE)
ELECTRIC COOPERATIVE CORPORATION)
FOR AN ORDER AUTHORIZING THE CORPORATION)
TO BORROW AN AMOUNT NOT TO EXCEED)
\$1,343,000.00 FROM THE UNITED STATES)
OF AMERICA (REA), AND \$575,000.00 FROM) CASE NO. 7787
THE LOUISVILLE BANK FOR COOPERATIVES)
FOR THE PURPOSE OF PURCHASING FACILITIES OF)
KENTUCKY UTILITIES COMPANY IN ACCORDANCE)
WITH AN EXPIRED WHOLESALE POWER SUPPLY)
AGREEMENT WITH KENTUCKY UTILITIES COMPANY)

O R D E R

On March 27, 1980, Jackson Purchase Electric Cooperative Corporation ("Jackson Purchase") filed its application with the Energy Regulatory Commission, predecessor of the Public Service Commission, seeking authority to borrow \$1,343,000 from the United States of America (REA) and \$575,000 from the Louisville Bank for Cooperatives (LBC), and to execute the notes, loan agreements and other documents necessary to complete the transaction.

The proceeds from the proposed borrowings would be applied to the purchase from Kentucky Utilities Company (KU) of 38 miles of existing 69 KV transmission line, which was originally constructed by KU solely to serve Jackson Purchase, and the purchase of rights-of-way acquired by KU to construct a tie line from New York to LaCenter to complete a 69 KV loop for Jackson Purchase's use.

The matter was set for hearing on April 30, 1980, at 2:00 p.m., Eastern Daylight Time, in the Commission's offices in Frankfort, Kentucky. The hearing was held as scheduled and all parties of interest were allowed to be heard. There were no intervenors, and no protests were entered.

The Commission, after consideration of the application and record, determined that additional information was needed in order to determine the reasonableness of the request. Therefore, by Order dated June 20, 1980, the Commission directed Jackson Purchase to file the necessary information. Thereafter, on June 27, 1980, Jackson Purchase filed its response wherein it stated that it was unable to comply with the provisions of the Order, since the information requested was peculiarly within the knowledge of KU, the seller. On that ground, Jackson Purchase asked to be relieved from the June 30, 1980, filing date imposed by the Order.

After further consideration, the Commission, by Order dated August 8, 1980, granted the request to be relieved from filing the information by June 30, 1980, but ordered Jackson Purchase and KU jointly to supply the necessary information by August 31, 1980. A letter was received from Jackson Purchase, however, again stating that the information could not be furnished until KU supplied it to Jackson Purchase.

By November 14, 1980, the information had not been filed. It was the Commission's opinion that more than sufficient time (in excess of 4 months) had been allowed; therefore, the application was dismissed without prejudice.

On November 17, 1980, Jackson Purchase, by counsel, filed its Petition to Reconsider the Commission's Order entered November 14, 1980, wherein it dismissed the application without prejudice. The Petition to Reconsider stated that the information could be made available within 45 days.

By Order dated December 3, 1980, the Commission reiterated its prior finding that the requested information is necessary to determine the reasonableness of the proposed borrowing and found that, in view of previous delays, this case should not be reopened or reconsidered until the information was made available. Therefore, the Petition to Reconsider was denied.

Thereafter, on January 13, 1981, Jackson Purchase filed the requested information along with a Petition to Reopen and Reconsider. By Order dated March 4, 1981, the Petition was granted. A further hearing was held in this matter on March 19, 1981.

The Commission, after consideration of the application and record and being advised, determines that:

WHEREAS, Jackson Purchase under terms of a current contract, will continue to purchase power from KU until January 1984, and

WHEREAS, the membership agreement between Jackson Purchase and Big Rivers Electric Corporation ("Big Rivers") requires Big Rivers to furnish all transmission facilities for Jackson Purchase, and

WHEREAS, KU will not sell the facilities to Big Rivers until such time as Jackson Purchase is no longer receiving power from KU as it would then be placed in the position of wheeling power to Jackson Purchase, and to wheel power would jeopardize KU's pending proceeding before the Federal Energy Regulatory Commission ("FERC") involving arrangements with various municipalities, and

WHEREAS, the proposed sale agreement provides that upon the consummation of the sale of the facilities, Jackson Purchase would bear additional annual costs for all maintenance, depreciation, taxes and insurance expenses associated with the facilities as well as the additional debt service requirements as a result of the loans, and

WHEREAS, the wholesale power rate was based in part on KU furnishing these facilities and bearing these costs, and no reduction would be made in this rate as a result of the proposed sale of the facilities, and

WHEREAS, no evidence of record supports Jackson Purchase's contention that the agreement to purchase the facilities now rather than late 1983 facilitated their 1978 negotiations with KU for a lower wholesale power rate, and

WHEREAS, KU will have no use for said facilities after 1983 and should, therefore, be willing to sell the facilities at that time,

NOW, THEREFORE, the Commission finds that at this point in time, the purchase of the stated facilities is neither necessary and appropriate for nor consistent with the proper performance by the utility of its service to the public. The Commission further finds that the proposed borrowing to finance said purchase should be denied.

IT IS THEREFORE ORDERED that authority to borrow \$1,343,000 from the United States of America and \$575,000 from the Louisville Bank for Cooperatives and to execute the notes, loan agreements and other necessary documents for the purpose of purchasing the previously described facilities is hereby denied.

Done at Frankfort, Kentucky this 17th day of June 1981.

PUBLIC SERVICE COMMISSION

Marlin M. Voh
Chairman

Katherine Randall
Vice Chairman

Don Harman
Commissioner

ATTEST:

Secretary